

By: Isaac

H.B. No. 3698

A BILL TO BE ENTITLED

AN ACT

relating to the ineligibility of certain governmental entities that prohibit or discourage the enforcement of immigration laws to participate in and receive funds from the major events reimbursement program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 11, Local Government Code, is amended by adding Chapter 364 to read as follows:

CHAPTER 364. ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS

Sec. 364.001. DEFINITIONS. In this chapter:

(1) "Immigration detainer" means a United States Department of Homeland Security Form I-247 or a similar or successor form that requests a local entity to maintain temporary custody of an alien for the federal government.

(2) "Immigration laws" means the laws of this state or federal law relating to immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

(3) "Lawful detention" means the detention of an individual by a local entity for the investigation of a criminal offense. The term excludes a detention if the sole reason for the detention is that the individual:

(A) is a victim of or witness to a criminal offense; or

1 (B) is reporting a criminal offense.

2 (4) "Local entity" means the governing body of a
3 municipality or county.

4 (5) "Policy" includes a formal, written rule, order,
5 ordinance, or policy and an informal, unwritten policy.

6 Sec. 364.002. LOCAL GOVERNMENT POLICY REGARDING
7 IMMIGRATION ENFORCEMENT. (a) A local entity shall not adopt,
8 enforce, or endorse a policy under which the entity prohibits or
9 discourages the enforcement of immigration laws.

10 (b) In compliance with Subsection (a), a local entity shall
11 not prohibit or discourage a person who is a commissioned peace
12 officer described by Article 2.12, Code of Criminal Procedure, a
13 corrections officer, a booking clerk, a magistrate, or a district
14 attorney, criminal district attorney, or other prosecuting
15 attorney and who is employed by or otherwise under the direction or
16 control of the entity from doing any of the following:

17 (1) inquiring into the immigration status of a person
18 under a lawful detention or under arrest;

19 (2) with respect to information relating to the
20 immigration status, lawful or unlawful, of any person under a
21 lawful detention or under arrest:

22 (A) sending the information to or requesting or
23 receiving the information from United States Citizenship and
24 Immigration Services or United States Immigration and Customs
25 Enforcement, including information regarding a person's place of
26 birth;

27 (B) maintaining the information; or

1 (C) exchanging the information with another
2 local entity or a federal or state governmental entity;

3 (3) assisting or cooperating with a federal
4 immigration officer as reasonable or necessary, including
5 providing enforcement assistance; or

6 (4) permitting a federal immigration officer to enter
7 and conduct enforcement activities at a municipal or county jail to
8 enforce federal immigration laws.

9 Sec. 364.003. DISCRIMINATION PROHIBITED. A local entity or
10 a person employed by or otherwise under the direction or control of
11 the entity may not consider race, color, language, or national
12 origin while enforcing immigration laws except to the extent
13 permitted by the United States Constitution or Texas Constitution.

14 Sec. 364.004. COMPLAINT; EQUITABLE RELIEF. (a) Any
15 person, including the federal government, may file a complaint with
16 the attorney general if the person offers evidence to support an
17 allegation that a local entity has adopted, enforced, or endorsed a
18 policy under which the entity prohibits or discourages the
19 enforcement of immigration laws or that the entity, by consistent
20 actions, prohibits or discourages the enforcement of those laws.
21 The person must include with the complaint the evidence the person
22 has that supports the complaint.

23 (b) A local entity for which the attorney general has
24 received a complaint under Subsection (a) shall comply with a
25 document request, including a request for supporting documents,
26 from the attorney general related to the complaint.

27 (c) If the attorney general determines that a complaint

1 filed under Subsection (a) against a local entity is valid, the
2 attorney general shall, not later than the 10th day after the date
3 of the determination, provide written notification to the entity:

4 (1) that the complaint has been filed;

5 (2) that the attorney general has determined that the
6 complaint is valid;

7 (3) that the attorney general is authorized to file an
8 action to enjoin the violation if the entity does not come into
9 compliance with the requirements of Section 364.002 on or before
10 the 90th day after the date the notification is provided; and

11 (4) if the local entity is the governing body of, or an
12 officer or employee of a municipality or county that the
13 municipality or county, as applicable, in which the local entity
14 governs or operates, or over which the local entity has
15 jurisdiction, will be ineligible from participation as an endorsing
16 municipality or endorsing county or from receipt of disbursements
17 from a fund described by Section 364.005(a) for a period of five
18 years beginning on the date a final judicial determination in an
19 action brought under Subsection (e) is made.

20 (d) Not later than the 30th day after the date a local entity
21 receives written notification under Subsection (c), the local
22 entity shall provide the attorney general with a copy of:

23 (1) the entity's written policies related to
24 immigration enforcement actions;

25 (2) each immigration detainer received by the entity
26 from the United States Department of Homeland Security; and

27 (3) each response sent by the entity for a detainer

1 described by Subdivision (2).

2 (e) If the attorney general determines that a complaint
3 filed under Subsection (a) against a local entity is valid, the
4 attorney general may file a petition for a writ of mandamus or apply
5 for other appropriate equitable relief in a district court in
6 Travis County or in a county in which the principal office of the
7 entity is located to compel the entity that adopts, enforces, or
8 endorses a policy under which the local entity prohibits or
9 discourages the enforcement of immigration laws or that, by
10 consistent actions, prohibits or discourages the enforcement of
11 those laws to comply with Section 364.002. The attorney general may
12 recover reasonable expenses incurred in obtaining relief under this
13 subsection, including court costs, reasonable attorney's fees,
14 investigative costs, witness fees, and deposition costs.

15 (f) An appeal of a suit brought under Subsection (e) is
16 governed by the procedures for accelerated appeals in civil cases
17 under the Texas Rules of Appellate Procedure. The appellate court
18 shall render its final order or judgment with the least possible
19 delay.

20 Sec. 364.005. PARTICIPATION IN OR DISBURSEMENTS FROM MAJOR
21 EVENTS REIMBURSEMENT PROGRAM PROHIBITED. (a) A municipality or
22 county may not participate as an endorsing municipality or
23 endorsing county under, and is ineligible for receipt of a
24 disbursement from a fund established under, Section 5A, Chapter
25 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session,
26 1999 (Article 5190.14, Vernon's Texas Civil Statutes), if a final
27 judicial determination in the action is made that a local entity

1 governing or operating in, or with jurisdiction over, the
2 municipality or county, as applicable, has intentionally
3 prohibited or discouraged the enforcement of immigration laws or,
4 by consistent actions, prohibits or discourages the enforcement of
5 immigration laws.

6 (b) A municipality's or county's ineligibility from
7 participation as an endorsing municipality or endorsing county or
8 receipt of disbursements under Subsection (a) expires on the fifth
9 anniversary of the date the final judicial determination in the
10 action brought under Section 364.004 is made.

11 SECTION 2. Section 364.005, Local Government Code, as added
12 by this Act, applies only to a request to the Texas Economic
13 Development and Tourism Office submitted by an endorsing
14 municipality or endorsing county for receipt of a disbursement from
15 a fund established under Section 5A, Chapter 1507 (S.B. 456), Acts
16 of the 76th Legislature, Regular Session, 1999 (Article 5190.14,
17 Vernon's Texas Civil Statutes), on or after the effective date of
18 this Act. A request submitted by an endorsing municipality or
19 endorsing county before the effective date of this Act is governed
20 by the law in effect on the date the request is submitted, and the
21 former law is continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2017.